

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MATTHEW NICOSIA,
WILLIAM (“ROCKY”) REININGER,
FABRIZIO DI CARLO, and
RONALD TOUCHARD,

Defendants.

Civil Action No. 22-CV-05761-PKC-CLP

**DECLARATION OF DAVID J. D’ADDIO IN SUPPORT OF PLAINTIFF’S MOTION
FOR DEFAULT JUDGMENT AS TO DEFENDANT FABRIZIO DI CARLO**

I, David J. D’Addio, pursuant to 28 U.S.C. § 1746, hereby declare that:

1. I have been counsel for plaintiff Securities and Exchange Commission in this action since it was filed on September 27, 2022, and I am familiar with all the facts and circumstances in this action.

2. I make this declaration pursuant to Fed. R. Civ. P. 55(b)(2) and Local Civil Rule 55.2, in support of plaintiff’s motion for default judgment against defendant Fabrizio Di Carlo (“Di Carlo”).

3. The Commission filed its Complaint in this action on September 27, 2022. Dkt. No. 1. A true and correct copy of the Complaint is attached hereto as Exhibit 1.

4. Defendant Di Carlo, a Canadian citizen believed to be residing in Canada, waived service of the summons and complaint in this matter. *See* Dkt. No. 17. The waiver of service was filed with the Court on December 14, 2022. *Id.*

5. Defendant Di Carlo has not answered the Complaint. The deadline for him to answer or otherwise plead in response to the complaint has expired.

6. Defendant Di Carlo is not an infant or an incompetent person. Nor is defendant Di Carlo presently in the military service of the United States as appears from the facts in this litigation.

7. Defendant Di Carlo's default has been noted by the Clerk of Court. A true and correct copy of the Certificate of Default is attached hereto as Exhibit 2.

8. As set forth in its memorandum in support of its Motion for Default Judgment, the Commission seeks, among other relief, disgorgement in the amount of \$38,198, which was paid to Di Carlo in connection with the conduct alleged in the Complaint in January and February of 2020. *See* Dkt No. 1 at ¶ 58. The Commission is also seeking prejudgment interest on that amount. Attached hereto as Exhibit 3 is the calculation of prejudgment interest using the standard calculation tool established by the Commission, which applies the applicable quarterly interest rate used by the Internal Revenue Service for underpayments, and which compounds interest quarterly. As set forth in Exhibit 3, the Commission is seeking \$5,772.53 in prejudgment interest for the period March 1, 2020, through June 30, 2023.

9. No part of the monetary relief the Commission seeks, as set forth in the proposed judgment, has been paid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 13, 2023.

/s/ David J. D'Addio
David J. D'Addio